

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	Docket No. CAA-5-99-020
)	
Techmetals, Inc.)	Proceeding to Assess an
Dayton, Ohio,)	Administrative Penalty
)	under Section 113(d) of the
)	Clean Air Act,
Respondent.)	42 U.S.C. § 7413(d)
_____)	

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On July 15, 1999, EPA filed the complaint in this action against Respondent, Techmetals, Inc. The complaint alleges that Respondent violated Section 112 of the Act, 42 U.S.C. § 7412, the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, 40 C.F.R. Part 63, Subpart N, and the Ohio State Implementation Plan at its facility in Dayton, Ohio.

3. Respondent filed an answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Respondent admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

5. Respondent waives its right to contest the allegations in the complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

6. Respondent certifies that it is complying fully with the NESHAP for Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, codified at 40 C.F.R. Part 63, Subpart N, and the Ohio State Implementation Plan, codified at Chapter 3745-35 of the Ohio Administrative Code.

7. The parties consent to the terms of this consent agreement and final order (CAFO).

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

9. In consideration of Respondent's good faith efforts to resolve this matter, Respondent's cooperation in providing U.S. EPA with information during pendency of this matter, and in conformance with U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy dated October 25, 1991, and the penalty provisions in Section 113(d) and (e) of the Act, U.S. EPA agreed to mitigate

the proposed penalty of \$36,190 to \$24,000, payable in four equal installments.

10. Respondent must pay \$6,000 of the \$24,000 civil penalty by cashier's or certified check, payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO. The subsequent three installments, each of \$6,000, must be paid within 150, 270, and 360 days of the effective date of the CAFO.

11. Respondent must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Susan M. Tennenbaum, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

13. This civil penalty is not deductible for federal tax purposes.

14. If Respondent does not timely pay the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). Respondent will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Respondent will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

16. This CAFO settles EPA's claims for civil penalties for the violations alleged in the complaint.

17. Nothing in this CAFO restricts EPA's authority to seek Respondent's compliance with the Act and other applicable laws and regulations.

18. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

19. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

20. The terms of this CAFO bind Respondent, and its successors, and assigns.

21. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

22. Each party agrees to bear its own costs and fees in this action.

23. This CAFO constitutes the entire agreement between the parties.

**U.S. Environmental Protection
Agency, Complainant**

Date: 2/16/00

By: 

Bharat Mathur, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

Techmetals, Inc., Respondent

Date: 2-9-00

By: 

Daniel A. Brockman, President
Techmetals, Inc.

CONSENT AGREEMENT AND FINAL ORDER

Techmetals, Inc.

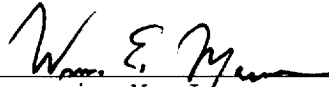
Docket No.

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: _____

2/17/00

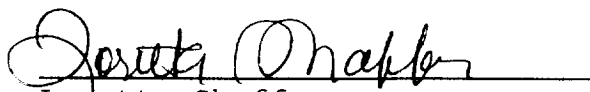
for  _____
Francis X. Lyons
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number _____ to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Respondent and Respondent's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Timothy D. Hoffman, Esq.
Coolidge Wall Womsley & Lombard
Suite 600
33 West First Street
Dayton, OH 45402-1289

on the 24th day of February, 2000.


Loretta Shaffer
AECAS (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 2199026565